IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36183 of 2007(G)

AGAINST THE ORDER IN IA.287/2007 IN
OP.163/2005 of PRINCIPAL SUB COURT, PALAKKAD

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PETITIONER:

THE ADMINISTRATOR, GURUVAYUR DEVASWOM,
GURUVAYUR, CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.U.K.RAMAKRISHNAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON

RESPONDENTS:

K.DAMODARAN NAIR @ BABU, S/O.K.V.NAIR,
AGED 42 YEARS, RESIDING AT JANAKI NAGAR,
THACHANGODE ROAD, MUTTIKULANGARA, PUDUPARIYARAM
AMSOM, PALAKKAD TALUK, PALAKKAD DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36183 OF 2007

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Dated this the 7th day of December 2007

JUDGMENT

This writ petition is preferred with a prayer to direct the Sub Court, Palakkad to consider and pass orders on I.A.No.287 of 2007 in O.P.(Succ.) No.163 of 2005 with respect to the maintainability of the petition under Section 372 of the Indian Succession Act for want of territorial jurisdiction. It is contended by the petitioner herein that the entire transaction had taken place within the jurisdiction of Thrissur and that the courts at Palakkad do not have any jurisdiction to decide the matter. So, in order to determine that question as a preliminary question, he had moved an application requesting the court to consider the territorial jurisdiction of that court to entertain the matter. It is a matter which goes into the root of the case. If the courts at Palakkad do not have jurisdiction then any decision rendered therein will be a futile exercise and waste of time.

Therefore, there is considerable force in the petitioner's contention . Therefore, I direct the Sub Court, Palakkad to consider and dispose of I.A.No.287 of 2007 regarding the territorial jurisdiction as a preliminary

point and thereafter proceed with the matter in accordance with law within two months from today. I also direct the court below not to proceed with the trial of the petition before considering this aspect.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-